

## **REMARKS/ARGUMENTS**

Claims 1-3 and 5-10 are pending in the instant application. Claims 1-3, 7, 9, and 10 have been amended. Claims 6 and 8 have been cancelled. Accordingly, claims 1-3 and 5, 7, 9 and 10 will remain pending upon entry of the instant amendment. *No new matter has been added.*

Support for the amendment to claims 1-3, 7, 9, and 10 may be found, for example, at least in the claims as originally filed.

Moreover, amendment and/or cancellation of the claims during pendency of the application are not to be construed as acquiescence to any of the objections/rejections set forth in any Office Action, and were done solely to expedite prosecution of the application. Applicants submit that claims were not added or amended during the prosecution of the instant application for reasons related to patentability. Applicants reserve the right to pursue the claims as originally filed, subsequently amended or added, or similar claims, in this or one or more subsequent patent applications.

### **Rejections under 35 U.S.C. §112, First Paragraph**

#### ***Rejection of Claims 1-3 and 5-10 under 35 U.S.C. §112, First Paragraph***

Claims 1-3 and 5-10 stand rejected under 35 USC § 112, first paragraph. In particular, the Office Action on page 2 suggests that "... the specification while being enabling for a compound of formula (I) or salt thereof, does not reasonably provide enablement for a solvate of a compound of formula I or solvate of salt of a compound of formula (I)." Applicants respectfully disagree.

Claims 6 and 8 have been cancelled, and therefore the rejection of claims 6 and 8 under 35 USC § 112, first paragraph is now moot. Moreover, without conceding the validity of these suggestions, and solely for the purpose of advancing prosecution, claims 1-3 have been amended to remove recitation of "solvates" and "solvates of salts"

Accordingly, Applicants assert that the rejection of claims 1-3 and 5-10 under 35 USC § 112, first paragraph is now moot. Applicants respectfully request reconsideration and withdrawal of this rejection.

***Rejection of Claims 6-10 under 35 U.S.C. §112, First Paragraph***

Claims 6-10 stand rejected under 35 USC § 112, first paragraph. In particular, the Office Action suggests that the specification, “while being enabling for the treatment of disorders of learning and memory, does not reasonably provide enablement for a method of treatment and/or prophylaxis of central nervous system disease; a method of treatment and/or prophylaxis of disorders of perception, concentration; a method of prophylaxis of disorders of learning and memory.” Moreover, the Office Action suggests that “the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims. Applicants respectfully disagree.

Claims 6 and 8 have been cancelled, and therefore the rejection of claims 6 and 8 under 35 USC § 112, first paragraph is now moot. Furthermore, without conceding the validity of these suggestions, and solely for the purpose of advancing prosecution, claims 7, 9, and 10 have been amended.

Accordingly, Applicants assert that the rejection of claims 6-10 under 35 USC § 112, first paragraph is now moot. Applicants respectfully request reconsideration and withdrawal of this rejection.

**Rejections under 35 U.S.C. §112, Second Paragraph**

***Rejection of Claims 1-3 and 5-10 under 35 U.S.C. §112, Second Paragraph***

Claims 1-3 and 5-10 stand rejected under 35 USC § 112, second paragraph, “as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.” In particular, the Office Action suggests that the language “A compound ... **and** the salts, solvates, **and/or** solvates of the salts thereof,” is unclear.

Claims 6 and 8 have been cancelled, and therefore the rejection of claims 6 and 8 under 35 USC § 112, second paragraph is now moot. Furthermore, without conceding the validity of the Examiner’s assertions, and solely for the purpose of advancing prosecution, claims 1 and 2 have been amended in accordance with the Examiner’s suggestion.

Accordingly, Applicants respectfully request that the rejection of claims 1-3 and 5-10 under 35 U.S.C. § 112, second paragraph be reconsidered and withdrawn.

**CONCLUSION**

In view of the foregoing, reconsideration and withdrawal of all rejections, and allowance of the instantly claimed invention are earnestly solicited. If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' attorney at the telephone number below.

Applicants have filed a petition for a two-month extension of time herewith, as well as authorization to charge our Deposit Account for the related fee. Applicants believe that there are no additional fees due with this response. However, if a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 04-1105 for any fee(s) due with this response.

Dated: **January 3, 2008**

Respectfully submitted,

By 

Jacob G. Weintraub, Esq.

Registration No.: 56,469

EDWARDS ANGELL PALMER & DODGE  
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 239-0100

Attorneys/Agents For Applicant